

**MINUTES
BOARD OF FORESTRY
April 3, 4, & 5, 2000
Sacramento, California**

MEMBERS PRESENT:

Stan Dixon, Vice Chair
Mark Bosetti
Robert Heald
Raymond Flynn
Kirk Marckwald
Tharon O'Dell

BOARD STAFF PRESENT:

Christopher P. Rowney
Executive Officer
Daniel R. Sendek
Executive Officer, Foresters Licensing
Donna Stadler, Executive Assistant

DEPARTMENTAL STAFF:

Andrea Tuttle, Director
Ross Johnson, Deputy Director
Resource Management
Dean Lucke, Assistant Deputy Director
Dennis Hall, Regulations Coordinator

CALL TO ORDER

Vice Chair Dixon called the April 2000 meeting to order.

REPORT OF EXECUTIVE SESSION

Vice Chair reviewed the items discussed in Executive Session.

Mr. Rowney announced that during closed session on the matter of Harvey A. Striplin, Jr., case number D258, the Board adopted the proposed decision from the Office of Administrative Hearings without revision. That decision was a suspension of 180 days stay with probation for two years and an actual suspension of 90 days plus RPF supervision. The Board also directed that a public notice be provided in this matter.

MINUTES

Vice Chair Dixon asked for approval of the March minutes.

Mr. Flynn suggested that the approval be held over until the following day.

CHAIRMAN'S REPORT

Vice Chair Dixon had nothing to report.

DIRECTORS REPORT

Director Tuttle reported that the Department had been working with the Air Resources Board regarding its Air Quality regulations. The Air Board adopted regulations for smoke management plans. The local district will implement the regulations. She expressed the Department's concerns regarding the implementation and the fees involved. The Department had asked that the Air Board to review its regulations after a year or two after it implementation.

Director Tuttle provided an update on the workshops held on the Jackson Demonstration State Forest (JDSF) regarding the data gathered on the beginning of the development of the Management Plan. She said that there were two workshops and that they were well attended. Currently JDSF is doing scoping on the EIR and working on the management plan. There will be meetings this month on the scoping in Ukiah, Fort Bragg, and Sacramento.

Director Tuttle then referred to the Department's report from the Board's binder. She reviewed the contract awards and legislation for the Board.

Mr. Woody Allshouse, Chief Deputy Director, reported on fires in the Tuolumne-Calaveras Ranger Unit. He reviewed the fire situation throughout the state and reported that approximately 3,300 acres had burned over the weekend in northern California. He reported that the Chico Airtack Base has been opened on the request of the Forest Service as a temporary base to re-load air tankers for the two fires on the Mendocino. He said that normally southern California would be the first area where CDF would open fire season, but this year that will depend on the weather.

REPORT OF USDA FOREST SERVICE

Ms. Karen Barnette, USDA Forest Service, Assistant to the Regional Forester, reported that she would be leaving the Forest Service and taking a position as the Deputy State Director for support services for the Bureau of Land Management. She then announced that Chris Nota would be Acting Assistant to the Regional Forester at least for the next four months. She then reported on several interim and new assignments within the fire and aviation units.

Ms. Barnette reported on the QLG Legislation and the appeals of the Forest Service's (FS) Environmental Impact Statement to implement that legislation have been resolved. However, the FS does expect that there would be further legal action.

Ms. Barnette then reported on fires on federal lands. She said that the federal wildland fire fighting agencies have suspended the use of a specific mixture of a retardant product that the Forest Service uses due to recent studies that show that it could be toxic to fish and frogs but not to humans.

There was some further discussion.

REPORT FROM OTHER FEDERAL AGENCIES, INCLUDING THE NATIONAL MARINE FISHERIES SERVICE (NMFS)

Mr. Doug Eberhardt, US Environmental Protection Agency (EPA), provided an update on TMDLs for the Board. He then reported on the decision on the Garcia River lawsuit. He said that on March 23 oral arguments were heard, and on March 30, the court ruled in EPAs favor. He provided the Board with a copy of the decision.

REPORT OF STANDING COMMITTEES

INTERIM COMMITTEE

Mr. Heald, Chair of the Interim Committee, said that the Committee meeting was well attended and there was good participation. The first topic for discussion was watershed assessment. There were substantial questions raised by committee members as well as the public. The Department has agreed to provide the Committee with a list of watersheds.

Mr. Heald said that the Department provided an overview of CDF's policies and options pertaining to the enforcement of the rules. The Committee then discussed SB 621 to identify if there are any forest practice rules that are procedural in nature and whose violation would not result in environmental damage. There was some discussion and a list of rules that may be procedural in nature was compiled. Agencies and public members were asked to respond at the next meeting.

Mr. Heald said that the Committee reviewed the proposal on the RPF and LTO Responsibility issue. There was input and suggestions from agencies and the public. He said that he would draft the results of the discussion after the public hearing for the Board's consideration.

Mr. Heald said that the Department provided the Interim Committee with a brief presentation on the Old Growth Committee's meeting. He said that there was not consensus among the members, but they would provide an outline of definitions of old growth and old growth trees for the Board.

Mr. Heald said that Richard Gienger and Board staff agreed to put together some suggested rule language on the Coho Consideration package for the Committee to look

at during its next meeting. Hopefully the Committee could then be ready to make a recommendation to the Board.

RESOURCE PROTECTION COMMITTEE (RPC)

Mr. Dixon, Chair of the RPC, said that most of what was discussed at committee had been covered during the full Board meeting today. Also, the Committee meetings have been an educational process for new members.

Mr. Bosetti said that the retardant issue is very important for CDF, and it put the retardant on a sole-source contract.

Director Tuttle said that it is a free market and that the Department is always looking for the product that does the job and that does not leave environmental hazards or stains on the landscape. She said that the problem with the prior fire retardant was that it had material in it that would prevent corroding the aluminum tanks, but the additive had an effect on frogs.

PUBLIC FORUM

Mr. Mark Rentz, California Forestry Association (CFA), said that CFA wanted to commend the Air Resources Board for providing an excellent forum to discuss concerns. The concern of CFA remains, however, over the increases of the Forest Service's projected burning agenda. Air quality is of concern as well as the ability to prepare sites for planting in an effort to re-establish stands after harvesting. Mr. Rentz then expressed concern regarding the roadless area issue. He said that there is not yet a clear definition and the policy of this administration and the Forest Service to obliterate roads would have an effect on fire-fighting abilities. He then said that according to an analysis from a former Regional 5 Forester, the Sequoia National Monument proposal to establish the Sequoia groves as protected areas is unwarranted and that there is no justification for the expansion.

Mr. Richard Gienger provided a packet containing the transcription of Director Tuttle's speech at the Redwood Region Logging Conference and the transcriptions from several other speakers on the Fish Friendly Forestry Panel at the Salmon Restoration Federation Conference 2000. He then reviewed the packet for the Board. He said that the Department needs to set standards of what would be required in watersheds. He also said that each watershed needs a recovery plan.

Mr. Felice Pace, Klamath Forest Alliance (KFA), said that there was an analysis going on to determine how much of the smoke from the Big Bar fire was created by an ineffective suppression effort. He said that the National Park Service is World-renown for its management of protected areas here in California. There is currently an effort to get the Chief to go out and look at the Big Bar fire area. The conservation and environmental community wants to look at that fire as an example of what is wrong and what can be done to fix fire suppression.

Ms. Traci Thiele, Humboldt Watershed Council (HWC) and Earth First, expressed her frustration over the logging and watershed issues on the North Coast. She believes that

they are in harms way and is concerned over health issues. She said that they need a clean and healthy environment to live in.

Mr. Dan Weldon, Forest Landowners of California (FLOC), read from a letter expressing the exasperation felt by the FLOC over the Board's last meeting. He then announced that the FLOC next annual meeting would be held at the Indian Rock Tree Farm.

Mr. Bob Rynearson, Beaty and Associates, provided a brochure for the Day-in-the-District event being put on by the Fall River Resource Conservation District and invited the Board to attend the event.

Presentation from Department of Forestry and Fire Protection on its activities associated with California Forest Improvement Program (CFIP) and, Pursuant to Public Resources Code §4795(d), Associated Cost Share Rates

Mr. Steve Jones, CDF Deputy Chief Pest Management, referred to the 1999 CFIP Cost-Share Cap Rates in the Board's binder. He then reviewed the 2000 Proposed CFIP Cost-Share Cap Rates and related legislation for the members.

Mr. Rowney said that this item would come back to the Board next month for approval.

Mr. Richard Gienger said that it is good that some changes are being planned.

Mr. Dan Weldon, FLOC said that the FLOC membership is happy with the CFIP program. They believe that it has been a very helpful program.

REPORT OF THE EXECUTIVE OFFICER

Mr. Christopher Rowney, Executive Officer for the Board, reviewed legislation with the Board. He then reviewed the draft meeting schedule for the remainder of the year.

HEARING: To Amend Sections of Title 14 of the California Code of Regulations related to the Review Team Composition, 2000 to include Division of Mines and Geology

Mr. Dennis Hall, Regulations Coordinator, provided the Board with an overview of the package. He said that the intent of the rulemaking action was to include the Division of Mines and Geology as a member of the Review Team for plans relating to the harvest of timber in California.

Mr. Ross Johnson, Deputy Director for Resource Management, said that the Department is in support of the rules as written.

Ms. Trinda Bedrossian, Department of Conservation Division of Mines and Geology (DMG), said that the DMG is in support of the rules.

Mr. Ray Flynn wanted to know what percentage of the DMG reviews were field reviews.

Ms. Bedrossian said that in the past three years, DMG had reviewed between 30 and 40 percent.

Mr. Flynn asked how many DMG could do with additional staff.

Ms. Bedrossian said that once DMG was fully staffed, it would be able to review between 50 and 60 percent.

Public Comments

Mr. Kevin Bundy said that the package was within the intent of CEQA. He then said that he was in support of the package and urged its adoption.

Mr. Bernie Bush, Forest Resource Council, spoke in support of the package. He said that DMG had played a valuable role for a long time.

Mr. Mark Rentz, California Forestry Association (CFA), said that CFA supports having a representative from DMG on the Review Team Committee.

Mr. Richard Gienger said that he supported the package. He then requested that consideration be given to the Native American Heritage Commission as a member of the Review Team.

Mr. Gary Rynearson, RPF, spoke in support of the package.

00-4-1 Mr. Heald moved to close the public hearing. Mr. Flynn seconded the motion, and all were in favor.

00-4-2 Mr. Heald moved to adopt the Review Team Composition, 2000 as noticed. Mr. Flynn seconded the motion and a roll call was taken.

Bosetti	Aye
Heald	Aye
Marckwald	Aye
Flynn	Aye
O'Dell	Aye
Dixon	Aye

The motion passed by unanimous vote.

HEARING: Consideration of Proposed Amendments to Sections 895, 895.1, 898, 898.2, 914.8 [934.8, 954.8], 916 [936, 956], 916.2 [936.2, 956.2], 916.6 [936.6, 956.6], 923.3 [943.3, 963.3] and Proposed new Sections 916.9 [936.9, 956.9], 916.11 [936.11, 956.11], 916.12 [936.12, 956.12] and 923.9 [943.9, 963.9], in Title 14 of the California Code of Regulations (These amendments relate to the Threatened and Impaired Watersheds, 2000).

Mr. Dennis Hall, Regulations Coordinator, said that the March 17, 2000, 15-Day Notice reflects the changes that were adopted during the last meeting and the proposed changes before the Board. He then reviewed the changes noticed for the Board.

Mr. Ross Johnson, Deputy Director for Resource Management, said that the Department was in support of the language in the 15-Day Notice.

Dr. Marty Berbach, Department of Fish and Game (DFG), said that DFG supports the package as part of the ongoing process.

Public Comments

Mr. Robert di Perna, EPIC, said that he believed that the rules are not adequate and that the process is not working. He said that he does not support the proposed package.

Mr. Kevin Bundy, EPIC, said that the rules that were adopted in March are not strong enough to be an incentive for change. He believes that the Sunset clauses work against the state. He said that the Board should develop a watershed analysis and some site-specific rules. Mr. Bundy did not believe that the package could be used to make any analysis. He then said that the Board should reject the Sunset and develop stronger rules.

Ms. Mary Jo Brooks believed that the rules had been gutted. She said that there is a need to protect the forests and asked that the Board reconsider its actions.

Mr. Bob Rynearson, Beaty and Associates, referred their letters dated March 7 and 31, 2000. He said that they did not believe that their comments had been taken in consideration. However, they are in support of the proposed modification in the 15-Day Notice.

Mr. Bernie Bush, Forest Resources Council (FRC), said that FRC believes that the Board should review some of the issues in the field. He said that the Sunset issue is critically important. The FRC is in support of the 15-day noticed language so that the analysis effort could move forward.

Mr. Mark Rentz, California Forestry Association (CFA), said that CFA remains concerned about the rules package and reviewed portions of it for the Board. He said that there was no one right way to approach the watershed analysis, but it was time to move forward and that CFA supports the package.

Mr. Dave Hammons, California Licensed Foresters Association (CLFA), said that CLFA believes that clarity was the problem with the package.

Ms. Ronda Lucas, California Farm Bureau Federation (CFBF), said that CFBF has concerns with the economics, but encouraged the Board to go ahead with the language and the Sunset.

Mr. Felice Pace, Klamath Forest Alliance (KFA), provided a copy of a letter from the State Water Board, dated 1991 and reviewed it for the Board. He said that he did not believe that the proposed rules complied with the Clean Water Act.

Mr. Richard Gienger said that the package was inadequate. He expressed concern about getting it together by October.

Mr. Kent Stromsmoe reviewed the timing issue. He also reviewed the HCP portion of the notice for the Board. He then urged the Board to drop the Sunset clause and Section 916.9(x) from page 16.

00-4-3 Mr. Flynn moved to close the public hearing. Mr. Marckwald seconded the motion, and all were in favor.

Vice Chairman Dixon asked if the Interim Committee had recommendations for the full Board.

Mr. Heald, Interim Committee Chair, said that the Committee made no recommendations.

Mr. O'Dell said that there were some parts to the package that needed to be addressed. He did not believe that it was the intent to stop hauling in the channel zone.

Mr. Johnson said that the intent was directed to the harvesting of timber, not the hauling.

Mr. Heald said that the intent was to make sure that there was no additional harvesting in that channel zone.

Director Tuttle said that the Department had reviewed the issue brought by Member O'Dell.

Mr. Johnson said that the intent is that hauling could occur in that area.

Mr. Rowney reviewed the timing problem of two new regulatory proposals with the Board. For the package to get to the Office of Administrative Law by November, it would have to be noticed by mid-July.

There was some further discussion.

00-4-4 Mr. Flynn moved to approve the language as provided in the 15-Day Notice. Mr. Marckwald seconded the motion, and a roll-call vote was taken.

Bosetti	Aye
Heald	Aye
Marckwald	Aye
Flynn	Aye
O'Dell	Aye
Dixon	Aye

The motion passed by unanimous vote.

REPORT OF THE ADVISORY COMMITTEES

CALIFORNIA FOREST PEST COUNCIL (CFPC)

Mr. Scott Johnson, Chair of the California Forest Pest Council, announced that the California Forest Pest Council Weed Tour 2000 to be held in the Lake Almanor Area on

July 25 and 26, 2000. He also announced that the California Forest Pest Council Insect and Disease Field Meeting 2000 would be on July 20 in the Mt. Shasta Area. He then said that the Pitch Canker Task Force is doing extremely well and is involved in public outreach and education of fuels management of infested wood. Mr. Johnson then requested that he bring representatives to June Board meeting to give approximately an hour presentation on the outreach, education, GIS mapping, and pitch canker resistance. He also said that the Zone of Infestation has affected THPs reviews in some areas.

Vice Chair Dixon suggested that staff work with the FPC to get the presentation on the schedule for the June meeting.

RANGE MANAGEMENT ADVISORY COMMITTEE (RMAC)

Mr. Rowney said that the RMAC met on March 20 and 21, 2000, and worked on updating its Strategic Plan. It is also involved with the Sierra Nevada Framework, Noxious Weed Legislation, continued efforts with implementation of the Fire Plan, and air quality regulation issues. The next meeting of the RMAC is April 19 and 20, 2000.

MONITORING STUDY GROUP (MSG)

Mr. O'Dell reported that the MSG meeting had been canceled due to the death of a member of the group. Its meeting will be rescheduled in the near future.

PROFESSIONAL FORESTERS EXAMINING COMMITTEE (PFEC)

Mr. Daniel Sendek, Executive Officer for Licensing, said that there were no action items to report and that the PFEC would meet on April 13, 2000, and the next examination would be April 21, 2000.

CONTINUED REPORT OF EXECUTIVE SESSION

Vice Chair reported on the Executive Session.

Mr. Christopher Rowney, Executive Officer for the Board, said that during the closed session, the Board decided that an appropriate press release regarding the outcome of the Scott J. Feller case be sent out.

MINUTES

Vice Chair Dixon then asked for approval of the March minutes.

00-4-5 Mr. Flynn moved to approval the March 2000 Board of Forestry and Fire Protection minutes as amended. Mr. O'Dell seconded the motion, and all were in favor.

PRESENTATION FROM LAKE COUNTY regarding its proposal for County rules affecting timber harvest in a Scenic Combining District

Mr. Ed Robey, Lake County Board of Supervisors (BOS), said that the County passed an ordinance putting a ban on timber harvesting in the Scenic Combining District based on the Cobb/Loch Lomond MOU. He then read from a memorandum, dated March 22, 2000, in the Board's binder, providing background and reviewed it for the Board. Acting on the recommendation from the Ad Hoc Timber Harvest Committee, the BOS directed staff to forward the proposed rule package to the State Board of Forestry and Fire Protection for consideration.

Mr. Al Straessle, Lake County Special Planner, said that the Scenic Combining District was designated in the general plan in 1981. He said that the current ordinance was based on the Cobb Memorandum of Understanding that was developed a few years ago and has been accepted by both the environmentalists and the industry. He said that as of now, timber harvesting is prohibited in the Scenic Combining District in Lake County. These proposed rules are an attempt to remove that restriction.

00-4-6 Mr. Flynn moved to direct staff to work with Lake County and UC Extension to develop a 45-Day Notice for the Board consideration.

Mr. Mark Rentz, California Forestry Association (CFA), expressed concern over the lack of public input and suggested that the item be put on the Interim Committee's agenda so that the public has the opportunity to participate in the discussions.

Mr. Heald said that input from the public does not happen until a notice goes out.

Mr. Marckwald then seconded the motion, and all were in favor.

HEARING: To Consider Amendments to Sections 1035, 1035.1, 1035.3, 1037, 1092.11, 1092.12, 1092.14, 1092.16 of Title 14 of the California Code of Regulations (These amendments relate to Plan Submitter, Registered Professional Forester, and Licensed Timber Operator Responsibilities).

Mr. Dennis Hall, Regulations Coordinator, reviewed the current rules that outline the responsibilities of the Plan Submitter, the RPF, and the LTO for the Board. He then said that the intent of the proposed rules package was to increase the level of oversight with regard to timber harvesting operations.

Dr. Gerald Ahlstrom, CDF Chief for Forest Practice, said that the Department supports the package except for the "stop work order" section. The Department did not like the reference "site-specific," and suggested "or other" as alternative language.

Mr. O'Dell wanted to know if AB 621 would have an effect.

Dr. Ahlstrom said that he did not believe it would.

Mr. O'Dell asked the Board's Counsel about the discretion lawsuit.

Ms. Deborah Barnes, Deputy Attorney General and Board's Counsel, said that agencies have a lot of discretion in regards to enforcement and that she did not believe that SB 621 would have any impact at this time.

Public Comment

Mr. Doug Ferrier, Professional Consulting Forester, referred to his written comments. He said that a similar thing was tried in Santa Cruz and he did not believe that it helped in that county and wanted to know what the gain of this package would be.

Mr. Mark Rentz, California Forestry Association (CFA), expressed concerns over the "stop work order" and said that CFA believes that the RPF should be more involved in the process. CFA does not support the law enforcement role of the RPF.

Mr. Mike Anderson, RPF and LTO, said that the Board should look at this package. He then read from the notice. He said that the RPF would be the least knowledgeable on the site. A problem with SB 621 is that it eliminates the good working relationship with CDF. He believes that the concept is good, but it is the five-percent who are causing the problems. Mr. Anderson said that currently there is no provision for the LTO to attend the pre-harvest inspection and he believes that should be done.

Mr. Jerry Burke, LTO and RPF, opposed the requirement that the plan submitter hire the RPF for oversight on timber operations. He believes that the costs were too high and that it would put a strain on the relationship between the LTO and the RPF. Frequent visits by the RPF are invited, but very seldom occurs. He also opposed the RPF signing the stop work order. It is not clear who is the agent involved.

Mr. Dave Hammon, California Licensed Foresters Association (CLFA), referred to CLFA's written comments. He said that plans need to be clear and enforceable. There is a need for separation of the RPF, CDF, and the LTO.

Mr. Dan Weldon, Forest Landowners of California (FLOC), said that with this package, landowners would be expected to pay more money for their timber operations. The small landowner would be forced to harvest more timber to cover the costs involved. He asked that the Board continue to work on the package.

Mr. Felice Pace, Klamath Forest Alliance (KFA), said that he believes that the rules package should stand as originally noticed.

Mr. Richard Gienger said that he does not believe that this package is ready to be passed and that there is still work to be done.

There was some discussion.

00-4-7 Mr. O'Dell moved to close the public hearing. Mr. Flynn seconded the motion, and all were in favor.

Mr. Heald said that the Interim Committee had no recommendations for the Board. He said that the comments today were good ones. He said that he would like to adopt all or significant portions of the recommendations from the consulting foresters and CFA. The issue of "stop work orders" seems to be of great concern. However, there is alternative

language for that section. He said that he would like the package to go out to a 15-Day Notice, and possibly in May, pass the package with implementation on the first of July.

Mr. O'Dell said that the package should go out for a 15-Day Notice and go back to committee for further discussion

00-4-8 Mr. Marckwald moved to send the package out to a 15-Day Notice as amended. Mr. Heald seconded the motion.

Mr. O'Dell said that in May the meeting would be at Bass Lake and that would be difficult for the public attend to provide oral comment. He suggested having discussion during the Interim Committee in May with passage in June.

A roll call vote was taken.

Bosetti	Aye
Heald	Aye
Marckwald	Aye
Flynn	Aye
O'Dell	Aye
Dixon	Aye

The motion passed by unanimous vote.

NEW AND UNFINISHED BUSINESS

Mr. Christopher Rowney, Executive Officer for the Board, announced that on May 12 and 13, 2000, the Sierra Nevada Workshop in Sacramento which would be in connection with the Sierra Nevada Framework Project.

Director Tuttle said the workshop would be part of the state and federal Fire Alliance. Part of the discussion would be on fire and fuel issues in the Sierras. The workshop is about policy issues of the urban interface. She said that it was an important event.

Vice Chair Dixon said that he was impressed by the list of speakers of the event.

Mr. Marckwald said that it was important to clarify the fact that the Board chose to sunset the changes in the Threatened and Impaired Package in an effort to allow the Board to work with the landowners, scientists, and others, during the remainder of 2000 to develop an alternative regulatory approach.

Mr. Rowney said that what needs to be done is to clean up the final statement of reasons per the Board's direction and that is what staff would send to the Office of Administrative Law.

Mr. O'Dell said that he was pleased by the job done on the Review Team package.

ADJOURNMENT

Vice Chair Dixon adjourned the April 2000 meeting of the Board of Forestry and Fire Protection.

Respectfully submitted,

ATTEST:

Christopher P. Rowney
Executive Officer

Stan Dixon
Vice Chairman

Copies of the attendance sheet can be obtained from the Board Office.